

ISSUE DATE: October 31, 1997

DOCKET NO. P-5542/NA-97-1081

ORDER GRANTING CERTIFICATE OF AUTHORITY, SUBJECT TO CONDITIONS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey
Joel Jacobs
Marshall Johnson
Gregory Scott
Don Storm

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Request for a Certificate of
Authority to Provide Resale and Facilities
Based Local Exchange Service and Long
Distance Services

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PROCEDURAL HISTORY

On July 11, 1997, Tekstar Communications, Inc. (Tekstar or the Company) filed an application pursuant to Minn. Stat. §237.16 for authority to provide facilities based local exchange services, as well as long distance service in the Detroit Lakes exchange of U S WEST Communications, Inc. (USWC). Tekstar also requested approval of its proposed tariff.

On July 24, 1997, the Metropolitan 911 board (911 Board) submitted comments. The 911 Board's expressed the concern that it be allowed to review Tekstar's plan to provide 911 service in the metropolitan area to ensure that it is in compliance with existing requirements and Minn. Rule 7812.0550 *911 EMERGENCY SERVICE CAPABILITIES AND REQUIREMENTS*

On August 15, 1997 USWC submitted a request for intervention. Since no objections to USWC's request were received within 15 days of the filing, it is deemed granted by operation of law pursuant to Minn. Rules, Part 7829.0800, subd. 5.

On August 27, 1997, the Minnesota Department Public Service (the Department) recommended that the Company's application and tariff be approved conditioned upon Commission approval of an interconnection agreement.

The Commission met on October 14, 1997 to consider this matter.

FINDINGS AND CONCLUSIONS

I. TEKSTAR'S APPLICATION

Tekstar is a wholly-owned subsidiary of Tekstar Cablevision, Inc. which in turn is a wholly-owned subsidiary of Arvig Enterprises. Arvig Enterprises also operates three Minnesota local exchange companies: Twin Valley-Ulen Telephone Company, East Otter Tail Telephone Company, and Callaway Telephone Company.

Tekstar filed an application for authority to provide facilities based local exchange services and long distance service solely to customers in the Detroit Lakes exchange of USWC. The Company's application was filed pursuant to Minn. Stat. § 237.16.

Tekstar stated that it initially intends to provide service through resale of USWC services. Tekstar stated that it planned to begin using some of its own facilities to provide service by mid-1998 and will offer facilities based service throughout its territory by the end of 1998.

II. COMMISSION ANALYSIS

A. General Background

Tekstar is asking for authority to provide facilities-based local service, which automatically includes the authority to provide interexchange service. The Commission's recently adopted local competition rules state:

A certificate to provide local facilities-based service authorizes the provision of all forms of local service, interexchange service, and local niche service in Minnesota. Minn. Rules, Part 7812.0200, subp. 2.

Minn. Stat. § 237.16, subd. 1(b), states:

No person shall provide telephone service in Minnesota without first obtaining a determination that the person possesses the technical, managerial, and financial resources to provide the proposed telephone services and a certificate of authority from the commission under terms and conditions the commission finds to be consistent with fair and reasonable competition, universal service, the provision of affordable telephone service at a quality consistent with commission rules, and the commission's rules.

B. Adequate Technical, Managerial and Financial Resources

The Commission finds that the record supports the Department's conclusion that Tekstar possesses the technical, managerial, and financial resources to provide local services in the Detroit Lakes exchange as required under Minn. Stat. § 237.16, subd. 1(b). No party has challenged Tekstar's technical, managerial or financial ability to provide such services.

C. Appropriate Terms and Conditions

Under Minn. Stat. § 237.16, subd. 1(b), the terms and conditions under which an applicant may be certified to provide telephone service must be consistent with fair and reasonable competition, universal service, the provision of affordable telephone service at a quality consistent with Commission rules, and the Commission's rules. The terms and conditions of Tekstar's service are governed by the Company's tariffs and interconnection agreement. The best way, therefore, to evaluate these issues as they relate to Tekstar is through analysis of Tekstar's tariffs and interconnection agreements with incumbent LECs.

1. Tariff

Tekstar has submitted a proposed tariff which the Commission finds reasonable and will approve.

2. Interconnection Agreement

Since Tekstar has proposed to initially offer resale of incumbent telephone companies' services, Tekstar will need to secure interconnection agreements with USWC approved by the Commission in accordance with the Federal Act prior to commencement of service.

D. 911 Board's Concern

It appears that the 911 Board's concern to have an opportunity to review the Company's plan to provide 911 service in the metropolitan area is addressed by Minn. Rules, Part 7812.0550, one of the rules that Tekstar is subject to as a competitive local exchange carrier.

Minn. Rules, Part 7812.0550 requires a competitive local exchange carrier to submit a 911 plan to the Commission for approval before it offers local service in the metropolitan area. The Metropolitan 911 Board will have the opportunity to comment on the plan in the approval phase of the plan before the Commission.

III. COMMISSION ACTION

The Commission will approve Tekstar's proposed tariff¹ and grant Tekstar a conditional certificate subject to Commission approval of Tekstar's interconnection agreements and other conditions set forth fully in Ordering Paragraph 1 of this Order. Of course, Tekstar will also be subject to applicable Minnesota statutes and rules, including Minn. Rules 7812.0050 to 7812.2300 and any subsequent rules being developed in Docket No. P-999/R-97-608 and P-999/R-97-609.

ORDER

1. The Commission hereby grants Tekstar Communications, Inc. (Tekstar or the Company) a conditional certificate to provide resale and facilities-based local services and long distance service to customers in the Detroit Lakes exchange of US WEST Communications, Inc. (USWC) pursuant to Minn. Stat. § 237.16 and Minn. Rule 7812.0300, subp. 4 conditioned upon the following requirements:
 - Tekstar shall submit to the Commission and obtain the Commission approval of a final tariff, listing service rates and applicable terms and conditions, with proposed implementation dates.
 - Tekstar shall submit to the Commission and obtain the Commission approval of

¹ Approval of the tariff is granted, of course, with the recognition that the tariff will require further finalization and Commission approval before service may be provided pursuant to it. Finalization will include listing service rates and applicable terms and conditions, with proposed implementation dates, as provided in Ordering Paragraph 1.

any local services agreement with U S WEST, pursuant to the Telecommunications Act of 1996.

- Tekstar shall submit to the Commission and obtain the Commission approval of a 911 plan pursuant to Minn. Rule 7812.0550.
 - Tekstar shall submit to and maintain maps with the Department that distinguish clearly between operational areas and nonoperational areas.
 - Tekstar shall be subject to applicable Minnesota statutes and rules, including Minn. Rules 7812.0050 to 7812.2300 and any subsequent rules being developed in Docket No. P-999/R-97-608 and P-999/R-97-609.
2. The Company's proposed tariff is approved as to its general provisions, subject to finalization required in the first condition/requirement listed in Ordering Paragraph 1.
 3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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